

EXPLANATION OF COMMISSION DETERMINATIONS ON ADEQUACY

in

Professional Electric Cutting Tools from Japan Inv. No. 731-TA-571 (Review)

On February 3, 2000, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(5) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(5). Chairman Bragg and Commissioner Koplan dissented.

The Commission determined that the domestic interested party group response to its notice of institution was adequate. In this regard, the Commission received individual responses from four domestic producers of professional and/or consumer electric cutting tools, which account for about 90 percent of domestic production of professional electric cutting (“PEC”) tools and 98 percent of domestic production of all electric cutting tools.

The Commission did not receive a response from any respondent interested party.¹ Consequently, the Commission determined that the respondent interested party group response was inadequate.²

¹ Makita Corporation, a Japanese producer of PEC tools, and Makita USA, Inc., its related U.S. importer, responded to the Commission’s notice of institution. On December 8, 1999, the Department of Commerce issued its determination to revoke the antidumping duty order with respect to PEC tools that are produced in and exported from Japan by Makita Corporation. See Professional Electric Cutting Tools from Japan: Final Results of the Fifth Antidumping Duty Administrative Review and Revocation of the Antidumping Duty Order, in Part, 64 Fed. Reg. 71411, 71423 (Dec. 21, 1999). Thus, since Makita Corporation and Makita USA, Inc. are no longer subject to the antidumping duty order, the Commission did not consider them interested parties.

² Because other issues warranted a full review in this proceeding, Commissioner Askey did not make a determination with respect to the adequacy of the foreign producer/importer response of Makita Corporation and its related importer, Makita USA Inc. She notes that, while it is true that the Makita companies are no longer subject to the order, Makita Corporation was the single largest exporter of subject merchandise during the original period of investigation and is still a producer of PEC tools in Japan. Moreover, Makita was subject to the order until as recently as December 1999. Finally, there is still a limited possibility under the terms of the revocation agreement that Makita’s products could again become subject to the order. Clearly, Makita still has some interest in the outcome of this proceeding in its capacity as a foreign producer.

Notwithstanding its finding that there was not an adequate respondent interested party group response, the Commission exercised its discretion to proceed to a full review in light of significant industry developments since the imposition of the order and because of significant domestic like product issues.^{3 4}

³ Chairman Bragg voted to conduct an expedited review because the Commission did not receive an adequate response to the Notice of Institution on behalf of any foreign producer currently subject to the order under review, and Chairman Bragg found no circumstances warranting a full review. In her view, the like product issues and industry developments present in this review can be fully addressed by the Commission within the context of an expedited review; these factors do not warrant the expenditure of administrative resources in the conduct of a full review that is unlikely to result in the development of a significantly improved or different record, notwithstanding the use of investigative tools available to the Commission including the issuance of questionnaires and a public hearing.

⁴ Commissioner Koplan voted to conduct an expedited review because the Commission did not receive a response to the Notice of Institution on behalf of any respondent interested party and he saw no circumstances warranting a full review.